

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Petition of AT&T Services, Inc. for)	WC Docket No. 16-363
Forbearance Under 47 U.S.C. § 160(c) from)	
Enforcement of Certain Rules for Switched)	
Access Services and Toll Free Database Dip)	
Charges)	

**REPLY COMMENTS OF FRONTIER COMMUNICATIONS
CORPORATION OPPOSING AT&T'S PETITION FOR
FORBEARANCE**

Frontier Communications Corporation (“Frontier”) hereby submits these reply comments opposing AT&T Services Inc.’s Petition for Forbearance (Petition).¹ Specifically, Frontier opposes the portion of the Petition that requests the Commission to forbear from enforcing “all of its rules that allow [local exchange carriers (LECs)] to tariff a charge billed to [interexchange carriers (IXCs)] for toll-free database queries.”² The record makes clear that this request is both inappropriate for forbearance and also generally unjustified as a matter of policy. Impressively, the Petition manages to align nearly two dozen price cap ILECs, rate of return ILECs, CLECs and cable providers in near *unanimous* opposition, with the lone supporting commenter, Verizon, also standing to benefit if it could suddenly cease paying valid charges. All other commenters recognize that the Petition’s objectives and methods are not in the public interest.

¹ AT&T Services, Inc., Petition of AT&T Services, Inc., for Forbearance Under 47 U.S.C. § 160(c), WC Docket No. 16-363 (filed Sept. 30, 2016).

² *Id.* at 20.

The Petition Would Unfairly Eliminate Legitimate 8YY Database Cost Recovery.

One indisputable fact that emerges from the record is that the 8YY “data dip” tariff charges result from a legitimate expense. Verizon explains that the charges result from the fact that “the originating LEC or upstream tandem provider has to query an 8YY database to identify the IXC that provides the toll-free service on that call and route the call properly.”³ Windstream notes that AT&T itself “admits in its Petition [that] toll-free database queries are an actual and necessary cost incurred by the LEC that serves a customer calling a toll-free number.”⁴

Yet the entire point of this aspect of the Petition is to have the Commission rule that carriers can no longer recover for this valid cost. NTCA correctly recognizes that “[t]he impact of the Petition, if granted, would be a regime in which LECs would be obligated to incur costs but without a concomitant cost recovery mechanism.”⁵ Windstream similarly recognizes that “apparently AT&T contemplates that the originating LEC either should charge its own customer—turning the concept of toll-free calling on its head—or should eat the cost of the database query.”⁶ In either case this is an unjust result.

The Petition’s legally-dubious⁷ request for forbearance is not narrowly-tailored to match the purported, though unproven, issue of over-recovery for 8YY database queries. As a

³ Comments of Verizon, LLC, WC Docket No. 16-363, 5 (filed Dec. 2, 2016).

⁴ Comments of Windstream Services, LLC, WC Docket No. 16-363, 2 (filed Dec. 2, 2016) (citing Petition at 18-19) (Windstream Comments).

⁵ Comments of NTCA—The Rural Broadband Association, WC Docket No. 16-363, 19 (filed Dec. 2, 2016) (NTCA Comments).

⁶ Windstream Comments at 3.

⁷ See, e.g., Comments of James Valley Coop. Tel. Co. *et al.*, WC Docket No. 16-363, 2-10 (filed Dec. 2, 2016); Comments of WTA—Advocates for Rural Broadband, and Eastern Rural

preliminary matter, numerous commenters point out that AT&T has failed to prove the excessive nature of the charges.⁸ Yet even if there were efficiencies to be gained in 8YY database queries, the logical remedy would not be to eliminate the tariff charges altogether; rather, it would be to ensure that the efficiencies occurred. Commenters recognized the drastic nature of the remedy requested and suggested that there are many available alternatives to forbearance should the record show (which it does not in this proceeding) that arbitrage is occurring with 8YY database query charges.⁹ AT&T's self-serving requested forbearance would simply shift the cost burden to originating access providers while 8YY providers receive free services with no guarantees that those savings will be passed through to the 8YY customers.¹⁰

The Petition is Not the Correct Mechanism for Addressing the Complicated Issue of Intercarrier Compensation.

The overarching problem with the Petition is that it attempts to restart intercarrier compensation reform without doing so in a comprehensive manner that recognizes the complex

Telecom Association, WC Docket No. 16-363, 2-3 (filed Dec. 2, 2016) (WTA/ERTA Comments).

⁸ See, e.g., Comments of Peerless, WC Docket No. 16-363, 14 (filed Dec. 2, 2016) (“[B]eyond references to an array of different charges for these services by a handful of LECs, AT&T provides no evidentiary support for its proposal that any database dip charge is excessive or unjust and unreasonable, and provides no evidentiary support for its conclusion that LECs artificially inflate their database dip charges to evade the Commission’s access stimulation benchmarking requirements.”).

⁹ See, e.g., Comments of Inteliquent, Inc., Bandwidth.com, Inc., and Onvoy, Inc., WC Docket No. 16-363, 2-3 (filed Dec. 2, 2016) (suggesting capping CLEC rates at ILEC rates); Windstream Comments at 3-4 (suggesting utilizing the tariff investigation process).

¹⁰ Comments of NCTA—The Internet and Television Association, WC Docket No. 16-363, 5-6 (filed Dec. 2, 2016) (“To the extent AT&T is suggesting that LECs should offset that cost by increasing their basic local exchange service charges so that AT&T alone can realize significant savings, the commission would need to give careful consideration to the implications of such a one-sided proposal on end users and competition.”).

evolution of current system. While the Petition cites the convenient benefits of a “bill and keep” regime, it fails to address the fact that the progression to bill and keep was necessarily done in concert with universal service reform. The 2011 reform effort was done to correct “a complex system of explicit and implicit subsidies to support . . . our most expensive to serve, most rural, and insular communities.”¹¹ An essential element of the reform was making implicit subsidies, like intercarrier compensation, explicit. Frontier agrees with CenturyLink that “[e]ven if originating access charges, or some of them, are to be reduced or eliminated eventually, the Commission should, and legally must, ensure that a mechanism exists for LECs to recover the costs of those services.”¹²

The record also shows that “[t]his is only a small subset of the numerous intercarrier compensation issues raised by the Commission in its Further Notice of Proposed Rulemaking (FNPRM) accompanying its November 2011 Intercarrier Compensation Reform Order.”¹³ The correct vehicle for the Commission to ensure comprehensive intercarrier compensation reform, to the extent it wishes to do so, would be continuing the 2011 FNPRM.

Accordingly, the Commission should, consistent with the overwhelming weight of the record, deny the AT&T Petition’s piecemeal proposal for additional intercarrier compensation reform.

¹¹ *Connect America Fund*, Report and Order, 26 FCC Rcd 17663, 17667 ¶ 2 (2011).

¹² Comments of CenturyLink, Inc., WC Docket No. 16-363, 9 (filed Dec. 2, 2016); *see also* NTCA Comments at 6-7 (“AT&T’s instant Petition requests relief that would disregard comprehensive, structured transition for which the Commission has expressed favor.”).

¹³ Comments of O1 Communications, Inc., WC Docket No. 16-363, 1 (filed Dec. 2, 2016); *see also* WTA/ERTA Comments at 2 (“Such relief (as well as AT&T’s request for rules to define the network “edge”) requires a full-fledged rulemaking open to all interested parties that will elicit detailed evidence and carefully consider intercarrier compensation, universal service and related

Sincerely,

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issues that affect major portions of the telecommunications industry. These matters have no relevance to, or any reasonable place in, a forbearance proceeding.”).